

Message Text

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PAGE 01 CARACA 08802 222155Z

15

ACTION EB-07

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FM AMEMBASSY CARACAS

TO SECSTATE WASHDC 9911

C O N F I D E N T I A L CARACAS 8802

EO 11652: GDS

TAGS: EINV EFIN EALR VE

SUBJ: FOREIGN INVESTMENT AND DIVESTITURE LEGISLATION

REF: STATE 196159

1. AT LUNCH ON AUGUST 20 THE AMBASSADOR DISCUSSED THE CONCERNS RAISED IN THE REFTEL WITH THE SUPERINTENDENT OF FOREIGN INVESTMENT, DR. RAFAEL SOTO ALVAREZ, AND TWO MEMBERS OF HIS STAFF. SOTO STATED CATEGORICALLY THAT HE WOULD NOT APPLY THE LAW ON DIVESTITURE PROCEDURES RETROACTIVELY. (THE LAW HAS NOW BEEN PASSED BY THE CONGRESS AND IS AWAITING THE PRESIDENT'S SIGNATURE.)

2. IN THE CADA CASE SPECIFICALLY, SOTO SAID THE TRANSACTION WILL STAND AND, , IN FACT, THAT HE HAS BEEN ASSISTING THE PARTIES TO WRAP UP THE REMAINING DETAILS. HE DID NOTE THAT SOME ASPECTS OF THE SALE MIGHT HAVE BEEN "QUESTIONABLE" UNDER THE PROVISIONS OF VENEZUELAN LEGISLATION ON THE BOOKS AT THE TIME. HIS PARTICULAR CONCERN NOW IS TO ASSURE THAT THE TERMS OF THE FINANCING THE CISNEROS GROUP IS OBTAINING ARE NOT INJURIOUS TO THE INTERESTS OF THE MINORITY VENEZUELAN STOCKHOLDERS. BUT HE REPEATED THAT THERE WOULD BE NO RETROACTIVE INVALIDATION OF THE CADA SALE, OR OF THE FEW PAST TRANSACTIONS THAT MIGHT BE AFFECTED BY THE LAW.

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PAGE 02 CARACA 08802 222155Z

3. SOTO WAS MUCH LESS CLEAR ABOUT THE FATE OF FUTURE DIVESTITURES. HE DESCRIBED IN GREAT AND SOMETIMES CONFUSING DETAIL THE STANDARDS AND METHODS SIEX INTENDS TO APPLY IN CARRYING OUT THE LAW'S PURPOSES. WHAT EMERGED WAS THE CONCEPT OF ADMINISTERED SALES WITH SIEX MAKING THE FINAL JUDGMENTS IN EACH INDIVIDUAL DIVESTITURE CASE AS TO SUITABLE PURCHASERS, THE DIVISION OF STOCK AMONG THEM AND THE TERMS OF SALE. SOTO STRESSED HIS INTENTION TO ADMINISTER THE LAW IN A MANNER THAT WOULD MAINTAIN A FAVORABLE INVESTMENT CLIMATE, STIMULATE BUSINESS EXPANSION AND ENCOURAGE THE DIVESTING FOREIGN ENTERPRISES TO STAY ON IN VENEZUELA UNDER THE NEW ARRANGEMENTS. BUT HIS ATTEMPTS TO EXPLAIN HOW THIS WOULD BE ACCOMPLISHED UNDER RULES DESIGNED TO FOSTER WORKER PARTICIPATION AND WIDESPREAD STOCK OWNERSHIP WERE NOT REASSURING. SOTO DID INSIST THAT NO ONE WOULD BE REQUIRED TO SELL AT LESS THAN A FAIR PRICE--ALTHOUGH, HE ADDED, SPECULATIVE PROFITEERING WOULD NOT BE CONDONED EITHER.

4. COMMENT: THE SUPERINTENDENT HIMSELF IS SINCERE AND APPARENTLY WELL-MEANING. HOWEVER, SIEX IS A NEW ORGANIZATION WITHOUT EXPERIENCE OR DISCERNABLE ADMINISTRATIVE CAPACITY IN THIS COMPLICATED FIELD. THE PROSPECTS FOR BUREAUCRATIC CONFUSION AND POLITICAL LOG-ROLLING ARE ALL TOO OBVIOUS IF SIEX ATTEMPTS TO CONTROL AND DIRECT THE DETAILS OF DIVESTITURE. THE HOPE IS THAT SOTO WILL FIND IT PRUDENT AS TIME PASSES TO STAY OUT OF THE DETAILS AND RESTRICT SIEX'S ROLE TO BROAD POLICY GUIDANCE. WE WILL CONTINUE TO FOLLOW THE PROBLEM CLOSELY.
SHLAUDEMAM

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